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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Case No. 1:19-cr-227
(LVJ)

v.

February 20, 2024

JOSEPH BONGIOVANNI ,

Defendant.

TRANSCRIPT EXCERPT - EXAMINATION OF WAYNE ANDERSON
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

TRINI E. ROSS, UNITED STATES ATTORNEY
BY: JOSEPH M. TRIPPI, ESQ.
NICHOLAS T. COOPER, ESQ.
CASEY L. CHALBECK, ESQ.

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And

UNITED STATES DEPARTMENT OF JUSTICE
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For the Plaintiff

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And

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BY: PARKER ROY MacKAY, ESQ.
3110 Delaware Avenue
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For the Defendant

PRESENT:

BRIAN A. BURNS, FBI Special Agent
MARILYN K. HALLIDAY, HSI Special Agent
KAREN A. CHAMPOUX, USA Paralegal

1 LAW CLERK: REBECCA FABIAN IZZO, ESQ.
2 COURT DEPUTY CLERK: COLLEEN M. DEMMA
3 COURT REPORTER: ANN MEISSNER SAWYER, FCRR, RPR, CRR
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8
9 * * * * * * *

10 (Excerpt commenced at 4:04 p.m.)

11 (Jury is present.)

12 04:04PM **W A Y N E A N D E R S O N**, having been duly called and
13 sworn, testified as follows:

14 04:04PM **MR. TRIPI:** May I proceed, Your Honor?

15 04:04PM **THE COURT:** You may.

16 04:04PM **MR. TRIPI:** All right. Thank you.

17 04:04PM **DIRECT EXAMINATION BY MR. TRIPI:**

18 04:04PM Q. Again, just for the record, what's your name, sir?

19 04:04PM A. Wayne Anderson.

20 04:04PM Q. Okay. Good afternoon, Mr. Anderson. Mr. Anderson,
21 what's your address?

22 04:05PM A. 17 Elmview place, Buffalo, 14207.

23 04:05PM Q. How long have you lived there, sir?

24 04:05PM A. About 24 years.

25 04:05PM Q. And is that a -- is that a double, upper and a lower?

04:05PM 1 A. Double, upper and lower.

04:05PM 2 Q. Do you live in the upper or the lower?

04:05PM 3 A. The upper.

04:05PM 4 Q. Is that a building that you own?

04:05PM 5 A. Yes.

04:05PM 6 Q. Do you rent out the lower?

04:05PM 7 A. Yes.

04:05PM 8 Q. I don't want to get too personal, but can you tell us

04:05PM 9 what your date of birth is, please.

04:05PM 10 A. 9/14/66.

04:05PM 11 Q. And just the last four of your social?

04:05PM 12 A. 4973.

04:05PM 13 Q. Mr. Anderson, where did you grow up, sir?

04:05PM 14 A. The West Side --

04:05PM 15 Q. Specifically where?

04:05PM 16 A. -- of Buffalo. West Side of Buffalo, Ferguson Street.

04:05PM 17 Q. How far have you gone in school?

04:05PM 18 A. A couple years of college.

04:05PM 19 Q. Where did you go to college?

04:05PM 20 A. Buffalo State.

04:05PM 21 Q. And did you go to high school in the local area?

04:05PM 22 A. Yes, Bennett. Bennett High School.

04:06PM 23 Q. And how far did you go? Did you graduate?

04:06PM 24 A. No, I took my GED and went to college.

04:06PM 25 Q. How far did you go in Bennett?

04:06PM 1 A. Sophomore year, probably.

04:06PM 2 Q. And that's located on Main Street in Buffalo?

04:06PM 3 A. Yes, sir.

04:06PM 4 Q. Sort of over near Hertel Avenue?

04:06PM 5 A. Yes.

04:06PM 6 Q. What part of town would that be considered?

04:06PM 7 A. North Buffalo.

04:06PM 8 Q. So you grew up on the West Side, but you went to high

04:06PM 9 school in North Buffalo?

04:06PM 10 A. Yes. I lived with my grandparents then, and they lived

04:06PM 11 in North Buffalo.

04:06PM 12 Q. Where did your grandparents live?

04:06PM 13 A. On Lisbon Avenue.

04:06PM 14 Q. Where is Lisbon near?

04:06PM 15 A. Right by Main. Off Main Street in between -- well, it

04:06PM 16 goes from Main all the way to, I think, Eggert Road.

04:06PM 17 Q. And do you know Joseph Bongiovanni?

04:06PM 18 A. Yes.

04:06PM 19 Q. Do you see him in court today?

04:06PM 20 A. Yes.

04:06PM 21 Q. Can you please point to him and describe something he's

04:06PM 22 wearing?

04:06PM 23 A. Yes. A burgundy tie.

04:07PM 24 **MR. TRIPI:** May the record reflect that the witness

04:07PM 25 pointed to and identified Mr. Bongiovanni, Your Honor?

04:07PM 1 **THE COURT:** Yes, it does.

04:07PM 2 **MR. TRIPI:** Thank you.

04:07PM 3 **BY MR. TRIPI:**

04:07PM 4 Q. How long have you known Mr. Bongiovanni?

04:07PM 5 A. Probably 40 years.

04:07PM 6 Q. And how old are you?

04:07PM 7 A. I'm 57.

04:07PM 8 Q. So you met when you were about 17 years old?

04:07PM 9 A. 17, 18, right around there.

04:07PM 10 Q. Okay. How did you meet him?

04:07PM 11 A. Just out and about. Through some friends.

04:07PM 12 Q. Who did you meet him through?

04:07PM 13 A. Probably my friend Bart Mazzara, or Marty Mazzara.

04:07PM 14 Q. Okay. That was Bart and Marty Mazzara?

04:07PM 15 A. Yes.

04:07PM 16 Q. Are those two individuals related to Michael Masecchia?

04:07PM 17 A. Through marriage.

04:07PM 18 Q. And I should you ask, do you know Michael Masecchia?

04:07PM 19 A. Yes, I do.

04:07PM 20 Q. How long have you known Michael Masecchia?

04:07PM 21 A. Around the same amount of time.

04:08PM 22 Q. Roughly 40 years?

04:08PM 23 A. Yes, sir.

04:08PM 24 Q. Fair to say that as you got older, you got to know a lot

04:08PM 25 of people who grew up in the North Buffalo area from going to

04:08PM 1 school at Bennett?

04:08PM 2 A. Yes.

04:08PM 3 Q. Did you spend time hanging out in the North Buffalo area?

04:08PM 4 A. Yes.

04:08PM 5 Q. Through the years, have you been friendly with the
04:08PM 6 defendant? Friends?

04:08PM 7 A. Yes, always.

04:08PM 8 Q. Do you know his current wife?

04:08PM 9 A. Not really, no.

04:08PM 10 Q. Do you know her name?

04:08PM 11 A. No, I don't.

04:08PM 12 Q. Okay. When you were growing up, how frequently were you
04:08PM 13 around the defendant?

04:09PM 14 A. Not that often.

04:09PM 15 Q. Okay. How frequently were you around Mr. Masecchia?

04:09PM 16 A. A lot. I hung around with him a lot.

04:09PM 17 Q. Fair to say that after you were subpoenaed to come

04:09PM 18 testify here, you indicated to the FBI, Agent -- Mr. Burns,

04:09PM 19 that you don't know how you could help the government in this
04:09PM 20 case?

04:09PM 21 A. Yes.

04:09PM 22 Q. And that Bongiovanni was a good guy, correct?

04:09PM 23 A. Correct.

04:09PM 24 Q. Okay. And you've known him a long time. Before he got
04:09PM 25 married, did you go to his stag party?

04:09PM 1 A. I believe so, yes.

04:09PM 2 Q. And where was that located?

04:09PM 3 A. Downtown, I can't remember the name of the bar. It was
04:09PM 4 in, like, the where the bricks -- the brick roads are in over
04:10PM 5 there, I can't remember the name of it.

04:10PM 6 Q. Do you think your grand jury testimony might refresh your
04:10PM 7 recollection on that?

04:10PM 8 A. Yes.

04:10PM 9 Q. Okay. I'm going to hand that up to you, it's Government
04:10PM 10 Exhibit 3513A. And I'm gonna direct you to page 7, but I
04:10PM 11 want to find you a line, okay?

04:10PM 12 A. Okay.

04:10PM 13 Q. I'm going to ask you to read on that page 7, lines 11
04:10PM 14 through 19, okay? I'm going to hand it up to you to read.

04:10PM 15 A. Okay.

04:10PM 16 **MR. TRIPI:** I've marked off those lines, Judge, so he
04:10PM 17 can find it easily.

04:10PM 18 **THE COURT:** That's fine.

04:10PM 19 **BY MR. TRIPI:**

04:10PM 20 Q. When you're done, don't read it out loud. When you're
04:10PM 21 done, just put it down and I'll take that back, okay?

04:11PM 22 A. Yes.

04:11PM 23 Q. Does that refresh your recollection as to where
04:11PM 24 Mr. Bongiovanni's stag party was that you attended?

04:11PM 25 A. Yes, sir.

04:11PM 1 Q. Where was that?

04:11PM 2 A. Iron Works.

04:11PM 3 Q. And where -- where's Iron Works located?

04:11PM 4 A. It's, like, past -- like, by the arena maybe.

04:11PM 5 Q. By the arena, are you referring to where the Buffalo

04:11PM 6 Sabres play?

04:11PM 7 A. Yes. Yes.

04:11PM 8 Q. Was that stag party before Mr. Bongiovanni got married?

04:12PM 9 A. Well, I assume. You have a stag before you get married.

04:12PM 10 Q. That would make sense, right?

04:12PM 11 A. Yes. Yes.

04:12PM 12 Q. Do you remember what year that was?

04:12PM 13 A. No. No, sir.

04:12PM 14 Q. Who else do you remember growing up with being at that

04:12PM 15 stag party?

04:12PM 16 A. It's been a long time. I imagine all of his closer

04:12PM 17 friends, than mine. Probably Louie Selva. Maybe Michael

04:12PM 18 Masecchia. Michael brother's Rano, maybe.

04:12PM 19 I'm just trying to think of North Buffalo guys.

04:12PM 20 Steve Brucato, maybe. Dominic Fragale. People like

04:12PM 21 that.

04:12PM 22 Q. Now you mentioned that name, Lou Selva. Is that someone

04:13PM 23 you've known for a while?

04:13PM 24 A. Yes. I've known Louie for a while, yes.

04:13PM 25 Q. How long have you known him?

04:13PM 1 A. Around the same as I've known Joe and Mike Masecchia,
04:13PM 2 about 40 years.

04:13PM 3 Q. Okay. So going back to your teenage years?

04:13PM 4 A. Yes, sir.

04:13PM 5 Q. As far as you understood it, what was Mr. Selva and the
04:13PM 6 defendant's relationship?

04:13PM 7 A. They were very, very good friends.

04:13PM 8 Q. And as far as you understood it, what was Mr. Masecchia
04:13PM 9 and the defendant's relationship?

04:13PM 10 A. I mean, they were friends, but I -- I didn't see, like,
04:13PM 11 it's not like they hung around, not like him and Louie did.
04:13PM 12 You know.

04:13PM 13 Q. Okay. And you indicated the name Bart Mazzara earlier.
04:13PM 14 Was that individual friendly with the defendant? I think
04:13PM 15 that's someone you said you met him through?

04:13PM 16 A. Bart, yes. Them guys were all guys that worked out in
04:13PM 17 the gym together and stuff. Bart is deceased now, Bart
04:14PM 18 passed away.

04:14PM 19 Q. What gym are you referring to?

04:14PM 20 A. They used to work out at, what's it called? The Fitness
04:14PM 21 Factory.

04:14PM 22 Q. Where is that located in?

04:14PM 23 A. That's on Kenmore on Delaware Avenue.

04:14PM 24 Q. Now, I'd like to direct your attention back in time to
04:14PM 25 November 25th, 2012. On that date, did the New York State

04:14PM 1 Police execute a search warrant at your residence at
04:14PM 2 17 Elmview Place, upper, Buffalo, New York?

04:14PM 3 A. Yes, sir.

04:14PM 4 Q. Okay. Now, using that as sort of a marker, do you think
04:14PM 5 that stag party was before or after that date?

04:14PM 6 A. I couldn't -- I have no idea, honestly.

04:14PM 7 Q. Okay. In any event, on that date, November 25th, 2012,

04:14PM 8 you and a guy named Damien Abbate got arrested and a bunch of
04:14PM 9 marijuana was seized; is that a fair summary?

04:15PM 10 A. Yes, sir.

04:15PM 11 Q. Ultimately, is it your understanding that Mr. Abbate
04:15PM 12 pleaded guilty in Erie County?

04:15PM 13 A. Yes.

04:15PM 14 Q. You were not -- you were not charged, were you?

04:15PM 15 A. No.

04:15PM 16 Q. Were you ever sentenced as a result of that arrest to
04:15PM 17 jail or probation?

04:15PM 18 A. No, sir.

04:15PM 19 Q. Okay. Even though you were arrested that day, your case
04:15PM 20 went away?

04:15PM 21 A. It was dismissed.

04:15PM 22 **MR. MacKAY:** I'm going to object to the leading.

04:15PM 23 **THE COURT:** I'm sorry?

04:15PM 24 **MR. MacKAY:** Judge, I'm going object to the leading.

04:15PM 25 **THE COURT:** Yes, sustained. Ask another question.

04:15PM 1 And the jury will strike that answer.

04:15PM 2 **BY MR. TRIPPI:**

04:15PM 3 Q. What's your understanding of what happened to your case?

04:15PM 4 A. My case was dismissed.

04:15PM 5 Q. Okay. Is that what you understood me to mean when I said
04:15PM 6 a moment ago, went away? I used a poor sentence, that's all.

04:15PM 7 A. Yes, sir.

04:15PM 8 Q. Okay. So now this might seem redundant, but I'm going to
04:15PM 9 just specifically ask you on January 6th, 2015, resulting

04:16PM 10 from that arrest, were you sentenced to 36 months probation
04:16PM 11 in New York State court; yes or no?

04:16PM 12 A. No.

04:16PM 13 Q. Okay. Stemming from that arrest, did you become an
04:16PM 14 informant for anyone?

04:16PM 15 A. No.

04:16PM 16 Q. Did you ever talk to the defendant and cooperate with the
04:16PM 17 DEA after that arrest by the New York State Police?

04:16PM 18 A. No, sir.

04:16PM 19 Q. Were you ever asked by the defendant to cooperate and
04:16PM 20 become a DEA informant after that arrest?

04:16PM 21 A. No, sir.

04:16PM 22 Q. Did a DEA task force officer named Joe Palmieri ever
04:16PM 23 approach you and ask you to cooperate after that arrest at
04:16PM 24 your house?

04:16PM 25 A. No, sir.

04:16PM 1 Q. Were you ever planning, after that arrest at your house,
04:16PM 2 were you ever planning with your lawyer to come in and
04:16PM 3 proffer at the U.S. Attorney's Office?

04:16PM 4 A. No, sir.

04:16PM 5 Q. Do you even know what that term "proffer" means?

04:16PM 6 A. No, sir.

04:16PM 7 Q. Do you know a Frank Burkhart?

04:17PM 8 A. Yes, sir.

04:17PM 9 Q. Who is that?

04:17PM 10 A. A friend from the West Side.

04:17PM 11 Q. Does he own a tattoo parlor?

04:17PM 12 A. Yes, sir.

04:17PM 13 Q. What's the name of that tattoo parlor?

04:17PM 14 A. I can't remember offhand. It's on Elmwood Avenue, I know
04:17PM 15 that.

04:17PM 16 Q. Does Hardcore Tattoo ring a bell?

04:17PM 17 A. That's it. Yes, sir.

04:17PM 18 Q. That's on Elmwood near where?

04:17PM 19 A. Elmwood and West Delavan.

04:17PM 20 Q. Does Frank Burkhart know Mike Masecchia?

04:17PM 21 A. Yes, but not well. Knows of him, probably.

04:17PM 22 Q. But you know both of them?

04:17PM 23 A. Yes, sir.

04:17PM 24 **MR. TRIPPI:** Just one moment, please, Your Honor.

04:17PM 25

04:18PM

1 **BY MR. TRIPI:**

2 Q. Earlier, I might have misunderstood the name. You
3 mentioned an individual, and if I get the name wrong it's
4 just me making a mistake. Okay?

5 A. Okay.

6 Q. So, but did you mention earlier among the people that you
7 thought were at Bongiovanni's stag, was there a Brucato? Is
8 that the name you said?

9 A. I said Steve Brucata.

10 Q. Brucata?

11 A. Yeah. I think that's how you say his name.

12 Q. Where did he work?

13 A. Steve? God, he bartended everywhere. The Pier, Gabels,
14 other -- I imagine other places, too.

15 **MR. TRIPI:** Okay. All right. No further questions,
16 Your Honor. Thank you.

17 **THE COURT:** Cross?

18 **MR. MACKAY:** Thank you, Your Honor.

19

20 **CROSS-EXAMINATION BY MR. MACKAY:**

21 Q. Good afternoon, Mr. Anderson.

22 A. Good afternoon.

23 Q. So I want to talk to this -- talk to you about this event
24 that occurred in November of 2012.

25 You and Damian Abbate are arrested at your 17 Elmview

04:19PM 1 Place residence, correct?

04:19PM 2 A. Yes, sir.

04:19PM 3 Q. I just want to set the scene. Elmview Place, that's

04:19PM 4 right over off of Elmwood Avenue by McKinley High School,

04:19PM 5 correct?

04:19PM 6 A. Yes, sir.

04:19PM 7 Q. In sum and substance, there's some drugs that were

04:19PM 8 supposed to arrive, and the state police arrested you during

04:19PM 9 the receipt of those drugs; is that a fair summary of what

04:19PM 10 happened?

04:19PM 11 A. Yes.

04:19PM 12 Q. Okay. You're placed in handcuffs, correct?

04:19PM 13 A. Yes, sir.

04:19PM 14 Q. Mr. Abbate is placed in handcuffs, correct?

04:19PM 15 A. Yes, sir.

04:19PM 16 Q. Okay. And you are taken downtown to central booking,

04:20PM 17 correct?

04:20PM 18 A. Yes, sir.

04:20PM 19 Q. Central booking, just so the jury understands, that's the

04:20PM 20 facility next to city court, correct?

04:20PM 21 A. Yes. Actually, I was taken under city court in a holding

04:20PM 22 cell.

04:20PM 23 Q. Correct. You've got to go down the ramp, correct?

04:20PM 24 A. Yes, sir.

04:20PM 25 Q. Go into the garage, correct?

04:20PM 1 A. Yes, sir.

04:20PM 2 Q. You go through the processing, correct?

04:20PM 3 A. Yes, sir.

04:20PM 4 Q. And then you sit, usually overnight, correct?

04:20PM 5 A. Yes, sir.

04:20PM 6 Q. And then you're brought up the elevator the next day to

04:20PM 7 see a city court judge, correct?

04:20PM 8 A. Yes, sir.

04:20PM 9 Q. And that's what happened to you, correct?

04:20PM 10 A. Yes, sir.

04:20PM 11 Q. So you pleaded not guilty in front of a judge, correct?

04:20PM 12 A. Yes, sir.

04:20PM 13 Q. But at some point in time down the line, your case is

04:20PM 14 dismissed, correct?

04:20PM 15 A. Yes, sir.

04:20PM 16 Q. And it's your understanding that Damien Abbate pleaded

04:20PM 17 guilty to some charge related to that incident, correct?

04:20PM 18 A. Yes, sir.

04:20PM 19 Q. Do you know if he pleaded guilty to the full charge for

04:20PM 20 which he was charged?

04:20PM 21 **MR. TRIPI:** Objection as to form.

04:20PM 22 **THE COURT:** Say it again?

04:20PM 23 **MR. TRIPI:** Form objection.

04:20PM 24 **THE COURT:** Form? Yeah. Sustained. You can ask the

04:21PM 25 question, just word it differently.

04:21PM 1 **MR. MacKAY:** Sure.

04:21PM 2 **BY MR. MacKAY:**

04:21PM 3 Q. Do you know what Mr. Abbate pleaded guilty to?

04:21PM 4 A. Not offhand, I mean, whatever the charge was.

04:21PM 5 Q. Okay. If he was charged with a drug charge, you're
04:21PM 6 telling us your understanding was he pleaded guilty to a drug
04:21PM 7 charge?

04:21PM 8 A. Yes, sir.

04:21PM 9 Q. And is it your understanding -- well, what sentence do
04:21PM 10 you understand that Mr. Abbate got?

04:21PM 11 A. Mr. Abbate got probation.

04:21PM 12 Q. Okay. Now, back up. You said you had entered a
04:21PM 13 not-guilty plea in court, correct?

04:21PM 14 A. I did, yes.

04:21PM 15 Q. You had to go out and get a lawyer, correct?

04:21PM 16 A. Yes, sir.

04:21PM 17 Q. And after that point in time, is it fair to say that any
04:21PM 18 conversations with a prosecutor were handled by your lawyer,
04:21PM 19 correct?

04:21PM 20 A. Yes, sir.

04:21PM 21 Q. You didn't go in and speak to a prosecutor and negotiate
04:21PM 22 your case, correct?

04:21PM 23 A. Yes, sir, no, I didn't.

04:21PM 24 Q. You paid a lawyer to do that, correct?

04:21PM 25 A. Yes, sir.

04:21PM 1 Q. And at some point in time, you learned that the case is
04:21PM 2 dismissed, correct?

04:21PM 3 A. Yes.

04:21PM 4 Q. But you don't necessarily have to go to court for the
04:22PM 5 case to actually be dismissed, correct?

04:22PM 6 A. Correct.

04:22PM 7 Q. You, I assume, received some sort of proof satisfying you
04:22PM 8 that this case was dismissed, correct?

04:22PM 9 A. Yes, sir.

04:22PM 10 Q. Okay. Now, you did not have to go in and do any
04:22PM 11 cooperation against Mr. Abbate, correct?

04:22PM 12 A. No, sir.

04:22PM 13 Q. Mr. Bongiovanni didn't approach you and ask to do any
04:22PM 14 cooperation, correct?

04:22PM 15 A. No, sir.

04:22PM 16 Q. There just came a point in time where the charges were no
04:22PM 17 longer over your head, correct?

04:22PM 18 A. Yes, sir.

04:22PM 19 Q. And that means you're no longer facing a drug charge from
04:22PM 20 that incident, correct?

04:22PM 21 A. Correct.

04:22PM 22 Q. In sum and substance, you understood Mr. Abbate took the
04:22PM 23 charge, correct?

04:22PM 24 A. Yes, sir.

04:22PM 25 Q. Okay. Now, Mr. Tripi asked you a little bit about this

04:22PM 1 stag party, correct, you remember that?

04:22PM 2 A. Yes.

04:22PM 3 Q. You gave us a list of names. Do you remember giving us
04:22PM 4 those names?

04:22PM 5 A. Yes, sir.

04:22PM 6 Q. Okay. Now, I guess what I want to clarify is at least it
04:23PM 7 sounded like you were trying to -- strike that.

04:23PM 8 Do you actually remember all those people being there?

04:23PM 9 Or those are just people you remember Mr. Bongiovanni
04:23PM 10 generally knew growing up?

04:23PM 11 A. I remember people, I would assume that were there. I
04:23PM 12 can't remember -- I can't recall everyone that was at that
04:23PM 13 stag.

04:23PM 14 Q. That's what I'm asking.

04:23PM 15 A. Yes.

04:23PM 16 Q. You don't remember specifically whether the names you
04:23PM 17 gave us were there --

04:23PM 18 A. No.

04:23PM 19 Q. -- you're basing it on assumption?

04:23PM 20 A. No, I just assume that they were there because them are
04:23PM 21 some of his friends and people me and him know well. And
04:23PM 22 Italian stags, a lot of people come to. You know? It's
04:23PM 23 usually all of our friends.

04:23PM 24 Q. Sure. And when you say a lot of people, can you estimate
04:23PM 25 for the jury how many people you think were there that the

04:23PM 1 stag?

04:23PM 2 A. When I was at his stag, I don't know how long I stayed,
04:23PM 3 but there was at least I'd say 40 to 50 people maybe tops.

04:23PM 4 Q. And if you're told it was at this bar, Iron Works, do you
04:23PM 5 recall if this was a private event, or if this was in
04:23PM 6 conjunction with other people being allowed to use the bar?

04:24PM 7 A. Usually when you have a stag, it's closed off for the
04:24PM 8 stag. So --

04:24PM 9 Q. Do you -- do you specifically remember it being closed
04:24PM 10 out for a private party?

04:24PM 11 A. I don't, no.

04:24PM 12 Q. But you recall at least 40 or 50 or more people being
04:24PM 13 there?

04:24PM 14 A. Yes. I'd say it was probably 40, 50 people there, I
04:24PM 15 guess.

04:24PM 16 Q. Okay. Now, by that point in time, you're quite removed
04:24PM 17 from when you knew Mr. Bongiovanni back in high school,
04:24PM 18 correct?

04:24PM 19 A. I'm sorry, repeat that?

04:24PM 20 Q. Bad question.

04:24PM 21 You knew Mr. Bongiovanni back in high school, correct?

04:24PM 22 A. More or less college, you know. Like, my college days.
04:24PM 23 I met Joe with friends over the years, yes.

04:24PM 24 Q. Okay. Yeah. I guess I'm just trying to trace that. I
04:24PM 25 think you narrowed it down to you were about 17?

04:24PM 1 A. 17, 18, yes.

04:24PM 2 Q. I guess that's right on the cusp of high school/college.

04:24PM 3 A. Right.

04:24PM 4 Q. I guess I'm trying to trace down when did you first meet

04:25PM 5 Mr. Bongiovanni?

04:25PM 6 A. Yes. I'd say right around '84, '85, '86, like right in

04:25PM 7 them years, you know.

04:25PM 8 Q. And you met him basically through your connections to

04:25PM 9 North Buffalo, right?

04:25PM 10 A. All my friends in North Buffalo, yes. Guys I went

04:25PM 11 through high school. Later on, I met their friends, and Joe

04:25PM 12 happened to be one of them. Yes.

04:25PM 13 Q. Okay. And at that point in time, one of the people that

04:25PM 14 formed some sort of connection is Michael Masecchia?

04:25PM 15 A. Yes. Yes.

04:25PM 16 Q. Okay. You knew him first? Or Mr. Bongiovanni knew him

04:25PM 17 first?

04:25PM 18 A. I knew Mike -- I knew Mike before I knew Joe. Joe knew

04:25PM 19 Mike before he knew me.

04:25PM 20 Q. Okay. So you're telling us that you separately knew

04:25PM 21 Mike, and then met you?

04:25PM 22 A. Yes.

04:25PM 23 Q. Okay. Now, Michael Masecchia, he's a big guy, correct?

04:25PM 24 A. Oh, yeah. Mike's a nice-sized guy, yeah.

04:25PM 25 Q. Yeah. I mean, can you clarify that for the jury? Is he

04:25PM 1 a physically intimidating guy?

04:25PM 2 A. He's a stocky guy.

04:25PM 3 Q. Okay. Height, weight if you can?

04:26PM 4 A. He's probably 5'10", 215 maybe.

04:26PM 5 Q. Okay. Works out a lot?

04:26PM 6 A. Yes.

04:26PM 7 Q. Now I think you then said on direct that some of these

04:26PM 8 folks all worked out together?

04:26PM 9 A. Yes, sir.

04:26PM 10 Q. How far now in the future from this 17, 18 years of age

04:26PM 11 are you talking that these guys worked out together?

04:26PM 12 A. I didn't follow how -- I know they all worked out because

04:26PM 13 we used to go to the beach, and they were all buffed up, and

04:26PM 14 me and a few of my friends weren't. You know, but we still

04:26PM 15 looked good, you know.

04:26PM 16 Q. How old are we talking when that happens?

04:26PM 17 A. Like I said, 17, 18, 19, 20, 21. We all went out to the

04:26PM 18 same places, you know, so we seen each other.

04:26PM 19 Q. Around there age?

04:26PM 20 A. Yes. Around that age.

04:26PM 21 Q. Now, fair to say that the connections grow more and more

04:26PM 22 distant over the years --

04:26PM 23 A. Yes.

04:26PM 24 Q. -- that you were with the same people?

04:26PM 25 A. Yes, we all grew up and went our ways, yes.

04:26PM 1 Q. Okay. And I think you told us that Mr. Bongiovanni, you
04:26PM 2 knew to be good friends with Mr. Selva, correct?

04:27PM 3 A. Joe was always a great guy, yes. He was very good,
04:27PM 4 polite person, good person.

04:27PM 5 Q. But specifically, you knew him to be at least good
04:27PM 6 friends with Lou Selva, right?

04:27PM 7 A. Louie and him were very tight, yes, they were good
04:27PM 8 friends.

04:27PM 9 Q. So that was a connection you knew to kind of carry
04:27PM 10 forward from that 17, 18-year-old age, right?

04:27PM 11 A. Yeah. They -- yes. They were -- they were always close.

04:27PM 12 Q. But if I think I understood you right, sounds like the
04:27PM 13 Michael Masecchia -- Mike Masecchia didn't stay as in close
04:27PM 14 contact with Joe Bongiovanni to what you saw going forward?

04:27PM 15 A. Mike? Mike moved around a lot. Mike was, like, friends
04:27PM 16 with a lot -- like, Joe and Louie were more secluded. They
04:27PM 17 were -- they did their jobs.

04:27PM 18 Mike was around all of us. Mike was always around. You
04:27PM 19 know, he's one of my friends. I traveled with, I did things
04:27PM 20 with. You know.

04:27PM 21 Q. So you stayed in contact with Michael Masecchia quite a
04:27PM 22 lot --

04:27PM 23 A. Yes.

04:27PM 24 Q. -- after those 17, 18-year-old ages?

04:27PM 25 A. Oh, yes. Me and Mike, we're close forever, yes.

04:27PM 1 Q. So even up until rather recently?

04:28PM 2 A. No, no. Over the past probably 10, 15 years, we drifted
04:28PM 3 off, but we still, you know, he's still one of my very good
04:28PM 4 friends. I care for him.

04:28PM 5 Q. Okay. And, you know, as we're getting closer and closer
04:28PM 6 to today, it's your testimony though that you didn't
04:28PM 7 generally see Mr. Bongiovanni and Mr. Masecchia together a
04:28PM 8 lot though; is that fair to say?

04:28PM 9 A. No, no. Like I say, back in the day, you'd see them,
04:28PM 10 they were all a group of guys from North Buffalo, big guys.
04:28PM 11 And it's not like they hung around, I never seen them, like,
04:28PM 12 all together or nothing, no.

04:28PM 13 Q. But when you say back in the day, again, you're referring
04:28PM 14 to, like 17 to, like, 21 years old?

04:28PM 15 A. Yes.

04:28PM 16 Q. Okay. We're not talking, like, in their 40s you're
04:28PM 17 seeing them out together?

04:28PM 18 A. No. No. No.

04:28PM 19 Q. You're not talking in their 50s you're seeing them out
04:28PM 20 together?

04:28PM 21 A. No, sir.

04:28PM 22 Q. Okay.

04:28PM 23 **MR. MacKAY:** One moment, Your Honor.

04:29PM 24 No further questions, Your Honor.

04:29PM 25 **THE COURT:** Any redirect?

04:29PM
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MR. TRIPI: No, Your Honor.

04:29PM
2

THE COURT: You can step down, sir. Thank you.

04:29PM
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THE WITNESS: Thank you.

04:29PM
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(Witness excused at 4:29 p.m.)

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(Excerpt concluded at 4:29 p.m.)

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CERTIFICATE OF REPORTER

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s/ Ann M. Sawyer

Ann M. Sawyer, FCRR, RPR, CRR

Official Court Reporter

U.S.D.C., W.D.N.Y.

20

21

22

23

24

25

TRANSCRIPT INDEX

EXCERPT - EXAMINATION OF WAYNE ANDERSON

FEBRUARY 20, 2024

W I T N E S S

PAGE

W A Y N E A N D E R S O N

2

DIRECT EXAMINATION BY MR. TRIPPI:

2

CROSS-EXAMINATION BY MR. MACKAY:

13